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| MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903 | | | EXAMINER | |
| | | | ENGLAND, SARA M | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/087,205

Applicant(s)

BLOMQUIST, MICHAEL L.

Examiner

SARA ENGLAND

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/29/10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/29/10 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al., US Patent Application Publication 2005/0137530, hereinafter Campbell, Malave et al., US Patent Application Publication 2002/0193679, priority 9/29/1999, hereinafter Malave and further in view of Hirschman et al. US Patent 4854324, hereinafter Hirschman.

As in Independent Claims 1 and 15, Campbell teaches a pump and method for programming the pump comprising generating a user interface having a plurality of pages configured for display on a screen of a programmable pump, one of the pages

being a home page (Page 1, par 6), a data port (cradle ref. 46), memory for storing a banner retrieved from the dataport (memory, ref. 16), retrieving a banner from memory of the programmable pump (Page 5, Par. 58), and displaying the retrieved banner in the home page on the screen of the programmable pump (LCD, ref. 18, Fig. 22 status). While Campbell teaches the hardware and method of retrieving a banner and displaying in a home page on a screen, they fail to show the banner comprising user-defined patient-identifying content as recited in the claims. In the same field of the invention, Malave teaches a method for configuring a pump for delivering an agent to a patient similar to that of Campbell. In addition, Malave further teaches a user interface to allow a user to define a banner with patient-identifying parameter content to be displayed on the screen from memory (Fig. 13, patient name, Fig. 14 banner and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave before him at the time the invention was made, to modify the pump interface banner programming taught by Campbell to include the user-defined banner containing patient-identifying parameter content of Malave, in order to obtain a method for programming a pump to display a user defined banner containing the patient's name. One would have been motivated to make such a combination because a customizable banner of the user's choice for personal identification purposes would have been obtained, as taught by Malave.

While Campbell and Malave teaches a method for programming a pump to display a user defined banner containing the patient's name, they fail to explicitly show the substantially freely-editable banner as recited in the claims. In the same field of the

invention, Hirschman teaches a medical device interface setup similar to that of Campbell and Malave. In addition, Hirschman further teaches substantially freely-editable banner (Col. 13, lines 42-50). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave and Hirschman before him at the time the invention was made, to modify the method for programming a pump to display a user defined banner containing the patient's name taught by Campbell and Malave to include the substantially freely-editable banner of Hirschman, in order to obtain the method for programming a pump to display a substantially freely-editable user defined banner containing the patient's name. One would have been motivated to make such a combination because freely customizable interface would have been obtained, as taught by Hirschman.

As in Independent Claim 8, Campbell teaches a pump comprising memory for storing a banner (Fig. 1, ref. 16), a screen (Fig. 2, ref. 18), and a processor in data communication with the memory and screen (Fig. 1, ref. 14) programmed to retrieve the banner from memory (Page 5, Par. 58), and display it on the screen LCD, ref. 18, Fig. 22 status), wherein the banner identifies the pump as an insulin pump (Bolus data, Insulin type screen, U100U, Fig. 16 and 22). While Campbell teaches the hardware and method of retrieving a banner and displaying in a home page on a screen, they fail to show the banner comprising user-defined patient-identifying content as recited in the claims. In the same field of the invention, Malave teaches a pump for delivering an agent to a patient similar to that of Campbell. In addition, Malave further teaches a user interface to allow a user to define a banner with patient-identifying content (Fig. 13,

patient name, Fig. 14 banner and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave before him at the time the invention was made, to modify the pump interface banner programming, where the banner identifies the pump as an insulin pump taught by Campbell to include the user-defined banner containing patient-identifying content of Malave, in order to obtain a method for programming a pump to display a user defined banner containing patient-identifying content. One would have been motivated to make such a combination because a customizable banner of the user's choice for personal identification purposes would have been obtained, as taught by Malave.

While Campbell and Malave teaches a method for programming a pump to display a user defined banner containing the patient's name, they fail to explicitly show the substantially freely-editable banner as recited in the claims. In the same field of the invention, Hirschman teaches a medical device interface setup similar to that of Campbell and Malave. In addition, Hirschman further teaches substantially freely-editable banner (Col. 13, lines 42-50). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave and Hirschman before him at the time the invention was made, to modify the method for programming a pump to display a user defined banner containing the patient's name taught by Campbell and Malave to include the substantially freely-editable banner of Hirschman, in order to obtain the method for programming a pump to display a substantially freely-editable user defined banner containing the patient's name. One would have been motivated to

make such a combination because freely customizable interface would have been obtained, as taught by Hirschman.

As in Claim 2, Campbell teaches retrieving a user-defined banner identifying the programmable pump as an insulin pump (Bolus data, Insulin type screen, U100U, Fig. 16 and 22).

As in Claims 3 and 9, While Campbell teaches a programmable pump in data communication with a computer, the computer programmed to receive a banner through memory, they fail to show the banner containing information identifying the user of the programmable pump as recited in the claims. In the same field of the invention, Malave teaches a programmable pump similar to that of Campbell. In addition, Malave further teaches a banner containing information identifying the user of the programmable pump (Fig 14, Patient Name). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave before him at the time the invention was made, to modify the programmable pump in data communication with a computer, the computer programmed to receive a banner from memory taught by Campbell to include the banner identifying the pump's user of Malave, in order to obtain a banner from memory displayed on the pump display identifying the pump's user. One would have been motivated to make such a combination because a personalized pump display would have been obtained, as taught by Malave.

As in Claims 4 and 10, Campbell teaches retrieving a banner containing medical information specific to the user of the programmable pump (Basal Review, Prime History).

As in Claims 6 and 12, Campbell teaches two or more of the pages generated by the user interface are home pages, and retrieving a banner from memory (ref. 16), includes retrieving two or more banners from memory, and displaying a banner one of the home pages and a banner on another of the home pages (Page 1, Par. 6 et seq.).

As in Claims 7 and 14, Campbell teaches downloading of the banner to the pump and loading the banner from memory onboard the programmable pump (Page 2, par 12-15).

As in Claim 13, Campbell teaches a data port, the processor being configured to receive a banner through the data port and store the banner in memory (See rejection of Claims 1 and 15 *supra*).

As in Independent Claim 16, Campbell teaches a data port (Fig. 1 ref. 46), memory (Fig. 1 ref. 16), the memory storing a list of selectively available banners (other users), a screen (Fig. 2 ref. 18), a processor in data communication with the data port (Fig. 1 ref. 14), the memory and the screen, the programmed to generate a user interface having a plurality of pages configured for display on the screen of the pump, at least one being a home page (Page 1, par 6), map one of the banners from the list of selectively available banners to the home page (Page 5, Par. 58), and display the banner in the home page (Fig. 22 status). While Campbell teaches the pump with hardware and programming to generate a home page which a banner is mapped to and

displayed, they fail to show the banner comprising user-defined patient-identifying content as recited in the claims. In the same field of the invention, Malave teaches a method for configuring a pump for delivering an agent to a patient similar to that of Campbell. In addition, Malave further teaches a user interface to allow a user to define a banner with patient-identifying content (Fig. 13, patient name, Fig. 14 banner and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave before him at the time the invention was made, to modify the pump with hardware and programming to generate a home page which a banner is mapped to and displayed taught by Campbell to include the user-defined banner containing patient-identifying content of Malave, in order to obtain the pump with hardware and programming to generate a home page which a banner is mapped to and displayed, the banner containing patient-identifying content. One would have been motivated to make such a combination because a customizable banner of the user's choice for personal identification purposes would have been obtained, as taught by Malave.

While Campbell and Malave teaches a method for programming a pump to display a user defined banner containing the patient's name, they fail to explicitly show the substantially freely-editable banner as recited in the claims. In the same field of the invention, Hirschman teaches a medical device interface setup similar to that of Campbell and Malave. In addition, Hirschman further teaches substantially freely-editable banner (Col. 13, lines 42-50). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell and Malave and Hirschman before him

at the time the invention was made, to modify the method for programming a pump to display a user defined banner containing the patient's name taught by Campbell and Malave to include the substantially freely-editable banner of Hirschman, in order to obtain the method for programming a pump to display a substantially freely-editable user defined banner containing the patient's name. One would have been motivated to make such a combination because freely customizable interface would have been obtained, as taught by Hirschman.

3. Claim 5 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al., US Patent Application Publication 2005/0137530, hereinafter Campbell, Malave et al., US Patent Application Publication 2002/0193679, priority 9/29/1999, hereinafter Malave, Hirschman et al. US Patent 4854324, hereinafter Hirschman and further in view of Estes et al., US Patent Application Publication 2003/0114836, hereinafter Estes.

Campbell, Hirschman and Malave teach a method for programming a pump to display a freely editable user defined banner containing non-pump parameter content (See claim 1 rejection *supra*). While Campbell, Hirschman and Malave teaches a programmable pump in data communication with a computer, the computer programmed to receive a banner through memory, the banner being user defined and containing patient-identifying content they fail to show retrieving a banner identifying the caregiver for the user of the programmable pump as recited in the claims. In the same field of the invention, Estes teaches a programmable pump similar to that of Campbell

and Malave. In addition, Estes further teaches a banner containing information identifying the caregiver of the programmable pump (Fig 3A, Facility Info, Physician Name). It would have been obvious to one of ordinary skill in the art, having the teachings of Campbell, Hirschman and Malave and Estes before him at the time the invention was made, to modify the programmable pump in data communication with a computer, the computer programmed to receive a banner from memory, the banner being user defined and containing patient-identifying content taught by Campbell, Hirschman and Malave to include the banner identifying the pump's caregiver of Estes, in order to obtain a banner from memory, the banner being user defined and containing patient-identifying content displayed on the pump display identifying the pump's caregiver. One would have been motivated to make such a combination because an authorized pump display would have been obtained, as taught by Estes.

Response to Arguments

Applicant's arguments filed 4/29/10 have been fully considered but they are not persuasive.

In response to the applicant's arguments that "Campbell fails to disclose a home page or a banner", the examiner disagrees. Campbell shows a main screen (home page) and a line of text running across the top of the page (banner). The examiner further notes that any screen can be considered a home page or assigned to be the first screen displayed upon booting up the device, and that the claims do not go as far to even disclose that the "home page" is the starting page for the User interface that is

displayed upon startup, even if it was not taught, this is an obvious variation. The banner limitation is merely a line of text displayed on the screen, the claims have not imparted any further meaning or limitations to define the banner. Therefore the examiner has taken the broadest reasonable interpretation of the term banner.

In response to the applicant's arguments that Malave fails to disclose a home page or a banner, the examiner notes that Malave, Estes and Hirshmen were not relied upon to teach these limitations. However Malave further supports the banner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARA ENGLAND whose telephone number is (571)272-4135. The examiner can normally be reached on M-F 7:30am-4:00pm, off on alternating Fridays..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 5712724847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SARA ENGLAND/
Primary Examiner, Art Unit 2179

